

REMARKS

This is a full and timely response to the outstanding Office action mailed March 18, 2004.

Upon entry of the amendments in this response, claims 1-9 and 66-72 are pending. More specifically, claims 10-65 are canceled and claims 66-72 are added. These amendments are specifically described hereinafter. It is believed that the foregoing amendments add no new matter to the present application.

I. Present Status of Patent Application

The Office Action has required an election of one of the following groups (I, II, or III):

- I. Claims 1-9, drawn to a smoke alarm system,
classified in class 340, subclass 628.
- II. Claims 10-30, 40-51, and 57-65, drawn to a
system for generating and transmitting smoke
information through a wireless communication
network, classified in class 709, subclass 207.
- III. Claims 31-39 and 52-56, drawn to a
communication system over free space,
classified in class 370, subclass 310.

Additionally, claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by *Morris* (U.S. Patent No. 5,587,705). Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Morris* in view of *Roderique* (U.S. Patent No. 5,841,764). Claims 5-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

II. Miscellaneous Issues

During a telephone conversation with Mr. Daniel R. McClure and Examiner La on March 11, 2004, a provisional election was made with traverse to prosecute the invention of group I, claims 1-9. Applicants hereby affirm this election.

Claim 5 and has been amended to be in independent form including all of the limitations of the base claim and the intervening claims. This places claims 5-9 in condition for allowance.

III. Rejections Under 35 U.S.C. §102(b)

The Office Action rejects claims 1-3 under 35 U.S.C. §102(b) as being anticipated by *Morris* (U.S. Patent No. 5,587,705). For the reasons set forth below, Applicants respectfully traverse the rejection.

Independent claim 1 recites:

1. A smoke detector comprising:
 - a smoke sensor sensing a smoke condition and outputting an alarm signal upon detecting a smoke condition;
 - an alarm, connected to the smoke sensor, indicating a smoke condition upon detection of the alarm signal; and

a communication device, connected to the smoke sensor, receiving the alarm signal and wirelessly transmitting an indicator of the smoke condition in a predetermined message format to a remote monitoring device upon detection of the alarm signal, ***each communication device having an unique address.***

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicants respectfully submit that independent claim 1 as amended is allowable for at least the reason that *Morris* does not disclose, teach, or suggest at least “each communication device having an unique address.” The system in *Morris* emits a different pulse tone corresponding to the floor where an alarm signal originates. However, each device does not have a unique address as required by claim 1. Notwithstanding, the undersigned has reviewed the entirety of the *Morris* patent, and has failed to identify any such teaching anywhere within this reference. Therefore, *Morris* does not anticipate claim 1, and the rejection should be withdrawn.

Because independent claim 1 as amended is allowable over the prior art of record, dependent claims 2-4 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-4 contain all the steps/features of independent claim 1. *See Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 2-4 are patentable over *Morris*, the rejection to claims 2-4 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claims 2-4 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the prior art of record. Hence, there are other reasons why dependent claims 2-4 are allowable.

IV. Rejections Under 35 U.S.C. §103(a)

The Office Action rejects claim 4 under 35 U.S.C. §103(a) as being unpatentable over *Morris* (U.S. Patent No. 5,587,705) in view of *Roderique* (U.S. Patent No. 5,841,764). For the reasons set forth below, Applicants respectfully traverse the rejection.

Dependent claim 4 recites:

4. The smoke detector of claim 3, wherein the predetermined message format comprises at least one packet, wherein the packet comprises:
- a receiver address comprising a scalable address of the at least one of the intended receiving communication device;
 - a sender address comprising the address of the sending communication device;
 - a command indicator comprising a command code;
 - at least one data value comprising a scalable message; and
 - an error detector that is a redundancy check error detector.

The Office Action rejects claim 4 under 35 U.S.C. §103(a) as being unpatentable over *Morris* (U.S. Patent No. 5,587,705) in view of *Roderique* (U.S. Patent No. 5,841,764). For the reasons set forth below, Applicant respectfully traverses the rejection.

“Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination.

Under section 103, teachings of references can be combined *only* if there is some suggestion or incentive to do so.” ACS Hospital Systems, Inc., v. Montefiore Hospital, 732 F.2d 1572, 1577 (Fed. Cir. 1984). The Office Action has combined the teachings of *Morris* with that of *Roderique* to reject claim 4. The Office Action states,

it would have been obvious at the time of the invention was made to a person having ordinary skill in the art to include the predetermined message format comprising at least one packet, wherein the packet comprises a receiver address comprising a scalable address of the art at least one of the intended receiving communication device, a sender address, a command indicator, at least one data value comprising a scalable message, and an error detector that is a redundancy check error detector to the detector of *Morris* as taught by *Roderique* for the purpose of effectively transmitting and receiving an indicator of the smoke condition.

However, Applicant contends that *Morris* does not disclose packets or any data information, especially that include a unique address. Plus, *Morris* provides no suggestion or motivation for modifying its simple system with such a more complex scheme, as disclosed by *Roderique*. Indeed, *Morris* lacks any type of processing electronics to implement packet-based communication scheme of *Roderique*. Neither FM transmitter 4, FM Receiver 9, FM Signal Decoder 10, nor FM Code Selector 11 are devices configurable to transmit/receive data packets via a radio link. Moreover, *Morris* contains no suggestion or reason for such communications, as *Morris* appears to disclose a device that emits a limited number of coded frequencies to like devices to indicate alarm vicinity.

For this reason, it is apparent that *Morris* provides no suggestion or motivation to make the combination with *Roderique*. Accordingly, the rejection of claim 4 based on this combination should be withdrawn.

Not only is there no motivation to combine the two references, but *Morris* teaches away from using the technology disclosed in *Roderique* “(P)rior art references before the tribunal must be read as a whole and consideration must be given where the references diverge and teach away from the claimed invention.” Akzo N.V. v U.S., International Trade Commission, 808 F.2d 1471, 1481, 1 U.S.P.Q.2d 1291 (Fed Cir. 1986), cert. denied, 482 U.S. 909. The Applicant contends that *Morris* teaches away from using such a complicated technique as disclosed in *Roderique*. *Morris* describes a simple smoke detector system such that

Multiple Alert Smoke Detectors located on the first floor of a dwelling may be set by alarm code selector to transmit an FM radio signal to all other Multiple Alert Smoke Detectors instructing them to emit an intermittent, single audible pulse tone with periodicity while Multiple Alerts Smoke Detectors located on the second floor of a dwelling may be set by the alarm code selector to transmit an FM signal to all other Multiple Alert Smoke Detectors instructing them to emit an intermittent dual pulse tone with periodicity.

Morris col. 2 line 62 to col. 3 line 4. So *Morris* only shows a system which can have different audible signals for different floors but the signals are transmitted with a simple FM signal. There are no message packets communicated between the entities; there is no unique address transmitted; so one of ordinary skill would not resort to a protocol that is as complicated as that shown in *Roderique* to communicate alarm conditions between various smoke detectors.

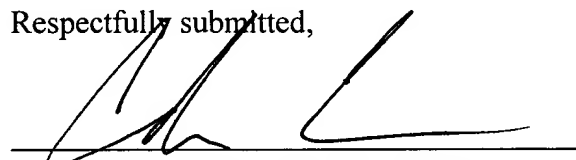
Additionally, the system in *Roderique* is taught to be used with complicated systems such as OSI and TCP/IP. There is nothing in *Roderique* which would teach or make obvious the use of these techniques in a FM system as disclosed in *Morris*. Therefore, not only is there no incentive to combine the two references, but *Morris* also teaches away from using the techniques in *Roderique*.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claim 4 recites further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the prior art of record. Hence there are other reasons why dependent claim 4 is allowable.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-9 and 66-72 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



N. Andrew Crain, Reg. No. 45,442

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500